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SUBJECT: NIGERIA: 2002 INCSR SUBMISSION

The following is Post's submission of the 2002 Nigeria INCSR Chapter.

I. Summary

Nigeria remains a hub of narcotics trafficking and money laundering activity. Nigerian organized criminal groups dominate the African drug trade and transport narcotics to markets in the United States, Europe, Asia, and Africa. Some of these criminal organizations are engaged in advance-fee fraud, commonly referred to in Nigeria as "419 Fraud," and other forms of defrauding U.S. citizens and businesses. Years of military rule and an associated economic decline contributed significantly to the expansion of drug trafficking and criminality in Nigeria. The resulting severe unemployment and widespread corruption provided both an incentive and a mechanism for Nigerian criminal groups to capitalize on Nigeria's central location along the major drug routes and access to global narcotics markets. Nigeria remains one of the world's most corrupt nations, according to Transparency International, a well respected international NGO. The democratically elected government of President Olusegun Obasanjo has faced steep challenges in checking organized crime emanating from Nigeria. Southeast and Southwest Asian heroin smuggled via Nigeria accounts for a significant portion of the heroin imported into the United States. Nigerian criminal elements operating in South America trans-ship cocaine through Nigeria to Europe, Asia, and Africa. South Africa is a major destination for Nigerian-trafficked cocaine within Africa. Nigerian-grown marijuana is exported to neighboring West African countries and to Europe, but not in significant quantities to the United States. Aside from marijuana, Nigeria does not produce any of the drugs that its nationals traffic.

Commitments to confronting organized crime and drug trafficking made by the Administration of President Obasanjo led to several watershed events in 2002 including the first extradition of a U.S. fugitive in August and the passage of crucial money laundering legislation in December. On January 14, 2003, the instruments of ratification of the U.S.-Nigerian Mutual Legal Assistance Treaty (MLAT) were formally exchanged and the Treaty was entered into force.

However, throughout the year, the looming April 2003 elections demanded increasing attention by senior elected GON officials. As a result, the fulfillment of previous law enforcement commitments diminished. A 2002 budget battle between the executive and legislative branch -- provoked largely by the looming elections -- resulted in an impasse and caused funding shortfalls for key law enforcement agencies such as the Independent Corrupt Practices and Other Related Offenses Commission (ICPC) and the National Drug Law Enforcement Agency (NDLEA). The former, Nigeria's fledgling agency charged with addressing the country's image as the world's most corrupt nation, received far less funding than it had requested to build a dedicated staff and bring high-level corrupt officials to justice. Similarly, the NDLEA, Nigeria's sole anti-drug agency, suffered from far below-normal operational funding through most of the year, though it was given a special allocation by President Obasanjo in the final quarter of the year. Nigeria's drug enforcement performance has not advanced significantly from past years, in part due to this funding problem. Major traffickers remain difficult to reach by the GON's investigative and prosecution efforts.

Kanu Agabi became Attorney General in March 2002, filling a void in the top law enforcement position created by the December 2001 assassination of the late Bola Ige. Strong law enforcement cooperation begun under Ige's tenure continued and is expanding under Attorney General Agabi's strong leadership. We are concerned, however, about the Nigerian Government's inability to solve the murder of its top law enforcement official, who was killed over a year

ago.

Despite budgetary shortfalls and challenges to its authority from legislative members under investigation for corruption, Nigeria's anti-corruption commission -- the ICPC -- produced significant gains in 2002. Nigeria instituted a campaign to root out corruption that started shortly after President Obasanjo's inauguration in May 1999, a campaign that was sustained and strengthened in 2001. In late 2001, the ICPC hired 93 investigators, prosecutors, and administrators, its first contingent of personnel not detailed from other agencies. The Obasanjo administration supports the domestically controversial 1990 NDLEA Act Number 33. This law dictates that Nigerians convicted of drug offenses abroad will be arrested upon their deportation back to Nigeria, and, if convicted, will be liable for a maximum of five years additional imprisonment for harming the reputation of Nigeria. Use of this law, however, has diminished; only one conviction was handed down in 2002. Corruption embedded over 16 years of continuous military rule continues to be a problem for the Obasanjo government, with the administration itself having suffered from a number of corruption scandals.

In 2002, the NDLEA encountered limited success in combating the various elements of the drug trade. Typically, street pushers and trafficker "mules" were apprehended; the effort against large-scale traffickers, however, was less effective. While operational efforts against the drug trade remain modest, the Obasanjo government in 2002 made good on previous commitments to create a structure to identify and interdict the proceeds of crime -- a major criminal issue in Nigeria, as highlighted by the Financial Action Task Force (FATF). This body, the Financial Crimes Commission, will be established through the December 14, 2002 enactment of the Terrorism, Economic and Financial Crimes Commission Act. Moreover, the Obasanjo government introduced, and the National Assembly in December passed, legislation to improve the existing 1995 Money Laundering Act that had previously only criminalized money laundering related to drug trafficking. Asset forfeiture has not been a successful deterrent against money laundering or drug trafficking activities. Corruption among enforcement officials and the judiciary raises serious questions about whether this particular sanction can be applied consistently enough to have a salutary effect, quite apart from the technical difficulty of putting together a particular case.

Interdiction and enforcement efforts are complicated by an absence of inter-agency cooperation and a serious lack of resources. Years of neglect by successive military regimes left the law enforcement community demoralized and ill-equipped to deal with sophisticated international criminal networks. This problem is compounded by pervasive corruption throughout all levels of government. There have been a few arrests of major traffickers; however, it can take years for a case to come to trial and no mechanism exists to track cases. Cases are often "systematically lost" within Nigeria's judicial system.

II. Status of Country

Nigeria produces no precursor chemicals or drugs that have a significant effect on the United States, but it remains a major drug-transit country. In addition, Nigerian criminal elements operate global trafficking/criminal networks.

The NDLEA is the law enforcement agency with sole responsibility for combating narcotics trafficking and drug abuse. It was established in 1989, and works alongside Nigerian Customs, the State Security Service, the National Agency for Food and Drug Administration and Control (NAFDAC), the National Police, and the Nigerian Immigration Service at various ports of entry. The NDLEA's most successful interdictions have taken place at Nigeria's international airports, with over 50 percent of hard drug seizures (e.g. cocaine and heroin) at the Lagos international airport. The agency has successfully apprehended individual drug couriers transiting these airports and some of the drug traffickers sponsoring these couriers. An improved interdiction effort at the Lagos international airport during 2001 has forced some smugglers to change tactics and ship contraband via Nigeria's five major seaports or to neighboring countries.

NDLEA seizures of hard drugs in 2002 were modest; no one seizure exceeded 15 kilograms, unlike its success in 2001 in seizing a shipment of 60 kilograms of cocaine at the

Lagos port and despite continuing evidence of large drug shipments transiting Nigeria en route to the United States and Europe. Prosecutions of drug couriers -- those carrying small amounts of hard drugs in baggage or internally ingested -- remained strong, while prosecution of major drug barons evidenced little progress. The improved access of the NDLEA to Nigeria's major seaports, as granted by Presidential decree in 2001, has not resulted in any significant improvement in drug enforcement at these key interdiction points, in part due to the underfunding of the NDLEA and resistance to NDLEA operations by the Nigerian Customs Service.

Nigerian criminal organizations, sophisticated specialists in moving narcotics and other contraband, are heavily involved in corollary criminal activities such as document fabrication, illegal immigration, and financial fraud. Their ties to criminals in the United States, Europe, South America, Asia, and South Africa are well documented. Nigerian poly-crime organizations exact significant financial and societal costs, especially among West African states with limited resources for countering these organizations.

III. Country Actions Against Drugs in 2002

Policy Initiatives. In 2002, the democratically elected Obasanjo Administration pushed forward a number of new legislative and executive initiatives to combat narcotics trafficking and organized crime. These initiatives included: the passage of new money laundering legislation and the creation of an Anti-Terrorism, Economic and Financial Crimes Commission to coordinate government-wide efforts against money laundering and financial crimes. The draft bill to create an Anti-Terrorism, Economic and Financial Crimes Commission shows the government's commitment to meeting its international obligations, particularly the criteria of the FATF. Nigeria's counter-narcotics policy is based on the National Drug Control Master Plan (NDCMP), which has been in place since 1998. This plan assigns responsibilities to various government Ministries and agencies as well as NGOs and other interest groups. The Master Plan also outlines basic resource requirements and time-frames for the completion of objectives. Many of these goals have not yet been met.

Both chambers in the National Assembly have Narcotics Affairs Committees, which monitor the performance of the NDLEA and implementation of Nigeria's counter-narcotics strategy. While frequent leadership changes at the NDLEA impaired the agency's effectiveness in the past, the current NDLEA Chairman, Alhaji Bello Lafiaji, who assumed office in October 2000, has given the agency new life and much greater direction. Chairman Lafiaji has declared an all-out offensive against drug trafficking and has instituted a number of internal reforms to improve the professionalism of NDLEA staff, including the retirement of officials suspected of corruption and improved training and benefits for NDLEA personnel. Chairman Lafiaji also has called for harmonization of Nigeria's narcotics legislation and has sought increased international assistance for his agency. The NDLEA has also embarked upon a publicity campaign to combat narcotics trafficking and drug abuse by staging various contraband destruction events around the country.

Accomplishments. The increased level of drug enforcement begun in 2001 was sustained but not improved in 2002. With assistance from the Department of State's Bureau for International Narcotics and Law Enforcement Affairs (INL) and the Drug Enforcement Administration (DEA), the NDLEA was given enhanced capacity to launch more aggressive drug interdiction campaigns and investigative efforts against drug barons.

The Nigerian government also improved its record of drug-related prosecutions. Using special drug courts, a more energetic effort by the NDLEA to prosecute drug traffickers efficiently and successfully produced over 2,000 convictions in 2001. The NDLEA also demonstrated stronger efforts to enforce Nigeria's money laundering law; by the end of 2002, five banks were under NDLEA investigation for alleged complicity in the laundering of drug proceeds.

The NDLEA has also proven itself as an effective drug enforcement leader in the region. With DEA assistance, the NDLEA created the West African Joint Operation (WAJO) initiative, bringing together drug enforcement personnel from 15 countries in the region to improve regional

cooperation. Several WAJO meetings organized by the NDLEA and DEA during 2002 culminated in a month-long joint interdiction operation in ten countries, leading to cumulative seizures of hard drugs totaling more than 50 kilograms. The NDLEA remains committed to continued regional cooperation and also has expanded counter-narcotics cooperation with the police in South Africa, where Nigerian criminal organizations are responsible for the bulk of drug trafficking. In 2002, NDLEA attended the International Drug Enforcement Conference (IDEC) in Santa Cruz, Bolivia and became the first African permanent member of this forum.

The Government of Nigeria also pledged to design a mechanism to process U.S. extradition requests expeditiously while observing due process under Nigerian law, in accordance with the Nigerian constitution. This mechanism will include the creation of an exclusive extradition team of public prosecutors and the designation of a High Court judge dedicated to extradition cases. In December 2001, the (late) Attorney General designated a High Court judge exclusively to hear extradition cases. While extradition requests were formerly heard in any court, including lower magistrates courts, the government has now centralized the handling of all U.S. extradition requests in the Federal High Court of Abuja. In late 2002, Gabriel Umoh was extradited to the United States to serve a prison sentence for financial fraud. This marked the first judicial extradition of a U.S. fugitive from Nigeria in over 10 years.

At Nigeria's initiative, a high level U.S.-Nigeria law enforcement dialogue began in 2001. The first meeting of this semi-annual forum, the Bilateral Law Enforcement Committee, took place on November 9 in Washington, D.C. and was followed by a second meeting in Abuja in December 2002. These meetings covered the full range of U.S. and Nigerian law enforcement interests: drug control; financial fraud; trafficking in persons; corruption; immigration crimes; police reform; extradition; and money laundering. The dialogue has already led to commitments by Nigeria to take significant steps toward mutually agreed goals by March 2002.

Law Enforcement Efforts. Nigerian counter-narcotics efforts primarily focus on the interdiction of couriers transiting Nigeria's air and seaports as well as a public campaign focused on destroying plots of cultivated marijuana throughout the country. Improved drug interdiction efforts at the Lagos airport and seaports led to a 40 percent increase in total drug seizures over 2000. 91.79 kilograms of heroin and 24.04 kilograms of cocaine were seized during 2002, as compared with 43 kilograms of heroin and 98 kilograms of cocaine seized in 2001. Combined hard drug seizures declined 20 percent in 2002. The number of drug-related arrests fell to 1,960 from 3,592 in 2001, and 915 drug convictions were handed down during 2002, compared to 2,041 in 2001. Major narcotics smugglers and their networks continue to elude arrest and prosecution, despite a NDLEA commitment to launch an intensified effort to investigate major international drug traffickers operating in Nigeria. Attempts by the NDLEA to arrest and prosecute major traffickers and their associates often fail in Nigeria's courts, which are subject to intimidation and corruption. Asset seizures from narcotics traffickers and money launderers, while permitted under Nigerian law, have never been systematically utilized as an enforcement tool, but some convicted traffickers have had their assets forfeited over the years. The number of traffickers so far penalized, however, remains small.

Corruption. Corruption is pervasive in Nigerian society and a systemic problem in Nigeria's government. Estimated unemployment is over 25 percent. Civil servants' salaries are low. In addition, salaries are frequently months in arrears, compounding the corruption problem. After its inauguration, the Obasanjo Administration embarked on a public anti-corruption campaign. Legislation was enacted and the ICPC was formed. This commission began prosecution of several minor officials on corruption charges, and initiated investigations into allegations of high-level corruption, but has been stymied by slow recruitment, inadequate federal funding, and a series of court challenges questioning the legitimacy of the Commission. The ICPC hired its first non-seconded staff of prosecutors, investigators, and administrators in 2001 but has been unable to expand its staff further in 2002. The U.S. Department of Justice, with INL funding, is providing the ICPC with training and technical assistance for its new staff.

The Obasanjo Administration, unfortunately, has made limited progress toward transparency and openness in its contracting and decision making process. A number of criminal cases, launched by the Anti-Corruption Commission against public officials accused of bribe-taking, are moving forward and are expected to conclude early in 2002, although an appeal to the Supreme Court challenging the ICPC's constitutionality has delayed these cases. Meanwhile, corruption remains a significant obstacle to counter-narcotics efforts, especially in the courts. While the NDLEA has attempted to purge its ranks of officers suspected of corrupt practices, a fear of corruption hampers inter-agency cooperation as agencies are often distrustful and unwilling to share information.

Agreements and Treaties. Nigeria is a party to the 1988 UN Drug Convention, the 1961 UN Single Convention on Narcotic Drugs, as amended by the 1972 Protocol, and the 1971 UN Convention on Psychotropic Substances. Nigeria has signed the UN Convention against Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, the Protocol Against the Smuggling of Migrants, and the Protocol Against the Illicit Manufacturing of and Trafficking in Firearms. The 1931 U.S.-UK Extradition Treaty, which was made applicable to Nigeria in 1935, is the legal basis for pending U.S. extradition requests. In 1989, the United States and Nigeria entered into a mutual cooperation agreement for reducing demand, preventing illicit use, and combating illicit production and trafficking in drugs. The United States and Nigeria also signed in 1989 a Mutual Legal Assistance Treaty (MLAT), which was ratified in 2001 and is entered into force on January 14, 2003. Nigeria is a party to the World Customs Organization's Nairobi Convention, Annex on Assistance in Narcotics Cases.

Cultivation/Production. Cannabis is the only illicit drug produced in any large quantities in Nigeria. The drug is cultivated in all 36 states. Major cultivation takes place in central and northern Nigeria and in Delta and Ondo states in the south. Marijuana, or "Indian Hemp" as it is known locally, is sold in Nigeria and exported throughout West Africa and into Europe. To date, there is no evidence of significant marijuana imports from Nigeria into the United States. The NDLEA has been engaged in an active eradication campaign. Throughout 2002, the NDLEA claimed to have seized more than 304 metric tons of cannabis, a slight increase from the 290 metric tons seized in 2001. In June 2002, the NDLEA invited dignitaries and the diplomatic corps to a narcotics destruction ceremony in Lagos to highlight the agency's seizures of illicit drugs throughout the country.

Drug Flow/Transit. Nigeria is a major staging point for Southeast and Southwest Asian heroin smuggled to Europe and the United States and for South American cocaine trafficked to Europe. While Nigeria remains Africa's drug transit hub, there are indications that the preferred methods of trans-shipment have changed. Improvement of the overall security posture at Lagos' Murtala Mohammed International Airport has prompted some drug traffickers to ship more narcotics through Nigerian seaports, concealing large quantities of contraband in shipping containers. They also use other West African airports and sea ports with more lax security controls.

Domestic Programs (Demand Reduction). Local production and use of marijuana have been a problem in Nigeria for some time; however, according to the NDLEA and NGOs, the abuse of harder drugs (e.g., cocaine, heroin) is now on the rise. Heroin and cocaine are readily available in many of Nigeria's larger cities. Law enforcement officials admit that Nigeria remains a major narcotics trans-shipment point, but some officials deny that domestic drug abuse is on the rise. U.S. officials and training instructors find that many Nigerian officials do not understand that by serving as a transit point, Nigeria may itself begin to suffer significant drug abuse problems, like many other similar transit points worldwide. The NDLEA continues to expand its counter-narcotics clubs at Nigerian universities and distribute counter-narcotics literature. The NDLEA also has instituted a teacher's manual for primary and secondary schools, which offers guidance on teaching students about drug abuse.

IV. U.S. Policy Initiatives and Programs

Policy Initiatives. U.S.-Nigerian counter-narcotics cooperation focuses on interdiction efforts at major international entry points and on professionalizing the

NDLEA and other law enforcement agencies. U.S. training and material assistance have continued, with the NDLEA as the primary target. The DEA office in Nigeria deals with a small group of NDLEA representatives to lessen the chance of compromise by corrupt individuals. USG working-level representatives enjoy good excellent access to their counterparts and there is an evident desire on both sides to strengthen these relationships. The current NDLEA chairman appears committed to meeting agency goals and improving the morale of NDLEA officers. The United States and Nigeria signed a Letter of Agreement covering many aspects of law enforcement assistance, including a new U.S.-funded police reform program in 2002. The Nigerian government has reviewed plans for reform and U.S. agencies have presented their own suggestions for ways to proceed, but the task will be formidable as the police lack so much in the way of equipment, logistical support and a living wage. Police morale has suffered over the years as the situation deteriorated. For example, salaries, in addition to being low, are frequently months in arrears.

Bilateral Accomplishments. In 2001, at the request of the GON, a U.S.-Nigeria Bilateral Law Enforcement Committee was created to advance mutual drug and crime control issues. Co-chaired by Nigeria's Attorney General and the State Department's Assistant Secretary for International Narcotics and Law Enforcement Affairs, the group met for the first time in November 2001 in Washington. A second meeting convened in Abuja in December 2002. These meetings produced joint declarations containing Government of Nigeria pledges to: introduce new money laundering legislation; begin investigations of major drug traffickers in cooperation with DEA; commence extradition proceedings of individuals wanted for prosecution by the U.S. government; and boost resources for the new Anti-Corruption Commission. Most of these benchmarks have been met and some have been exceeded. Meanwhile, the DEA office in Nigeria continues to work with the NDLEA on expanding their relationship. New Department of State assistance to the NDLEA allowed for a stronger interdiction posture at the Lagos international airport, Nigeria's largest drug transit point, forcing many traffickers to route drug shipments through neighboring countries. Department of State assistance and U.S. Secret Service operational support have also been provided to the Nigerian Police Force to improve investigations and enforcement operations against criminal organizations involved in advance fee or 419 Fraud, which largely targets American citizens and businesses and other Western nationals. The United States also provided training for NDLEA personnel on general investigative techniques and embarked on a project to support the NDLEA's training academy in Jos, Plateau State.

The Road Ahead. After years of non-cooperation, the U.S.-Nigerian relationship expanded after the 1999 reintroduction of democratic government in Nigeria. Despite a prolonged budgetary impasse in 2002 that limited most GON agencies to operating budgets of 40-50 percent of 2001 levels, President Obasanjo demonstrated his commitment to the international drug fight by granting the NDLEA a special allotment exceeding the NDLEA's 2001 budget. Nevertheless, federal funding for the NDLEA and other key Nigerian law enforcement agencies remains insufficient and erratic in disbursement. This inadequate funding is believed partially the cause of key weaknesses -- including the processing of U.S. extradition requests and the local prosecution of major drug traffickers -- that need to be addressed by the Nigerian Government. As noted elsewhere in this report, the narcotics and crime problems in Nigeria are deeply rooted in Nigeria's present governmental system, and in Nigerian society. It will require strong and sustained political will and continued international assistance for any Nigerian government to confront these difficult issues and bring about meaningful change.

The U.S. government has expanded aid to Nigeria's counter-narcotics efforts; anti-drug assistance provided since February 2001 now totals over \$1.2 million. Another area of key concern is the performance of Nigeria's judiciary. Law enforcement efforts are often stymied by the slow pace of the judicial system, which can be attributed to both intimidation and corruption of the judiciary by criminal organizations. The U.S. Agency for International Development is expanding a "rule of law" program with the Nigerian government to help strengthen and professionalize the judiciary. Through the framework of the new Bilateral Law Enforcement Committee, the Nigerian government has made good on its commitment to the establishment of a reliable extradition process that allows extradition requests to be heard expeditiously and fairly. Nevertheless, many U.S. extradition requests for narcotics traffickers have been outstanding for years.

Although Nigeria does not produce reliable crime statistics, most observers agree that public security deteriorated throughout the country in 2002. The police remain grossly mistrusted by the Nigerian populous and organized crime groups exploited that mistrust by preying on citizens throughout the nation, but particularly in key urban areas such as Lagos, Enugu, Port Hartcourt, Jos, Kano and Kaduna.

In early 2002 the Inspector General of Police was removed by the President, a move widely believed to have been linked to the IGP's alleged corruption and the failure to contain an unprecedented December 2001-January 2002 police strike over unpaid salaries and allowances. A newly appointed IGP, Tafa Balogun, began his tenure by announcing an eight-point plan to tackle corruption and crime, including an approach to dealing with violent criminals he termed "Fire-for-Fire". This was later followed by a "Shoot-To-Kill" policy announced by the Inspector General. These policies, while designed to address aggressively violent crime, resulted in a dramatic increase in the excessive use of force by police officers and the killing of numerous innocent civilians throughout the country.

Nigerian police are poorly trained. Most new constables and corporals -- the bulk of the force -- have never qualified in the use of a firearm, yet they are given automatic weapons and the implicit and explicit license to use excessive force. A standing internal police order allows police personnel confronting an unarmed riotous group to use firearms if they feel threatened. Implementation of a 2001 Presidential order to recruit 40,000 new police constables each year exacerbates the problem of absorbing poorly trained police into the force.

In late 2002 the U.S. government embarked on a project to assist the Nigerian Police Force in addressing fundamental problems caused or exacerbated by 16 years of military rule, during which the Police Force was denied material and human resources. This project seeks to provide the Nigerian Police with a roadmap for adopting reforms that will provide greater transparency and checks and balances to current management practices, and reorient police officers to community policing. While President Obasanjo and his advisors are aware of the need to modernize the police as a key pillar of democratic consolidation, little has been done to address key issues such as a living wage for the police and other law enforcement personnel. Salary arrears also remain a problem. The Government of Nigeria needs to demonstrate a commitment of its own resources to reorienting the police to serve the public rather than preying on the population to earn a living.

The U.S. government will continue to actively engage Nigeria on the issues of counter-narcotics and money laundering. There have been important successes in the last year, but long-term progress will only come through the continuation of serious dialogue and cooperation, and a willingness on the part of Nigeria's government to confront difficult issues. The underlying institutional and societal factors that contribute to narcotics-trafficking and money-laundering activities in Nigeria are deep-seated and require comprehensive, long-term solutions. Progress can only be made through sustained effort, political will, and support by Nigeria's friends.

JETER